

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

ORDER

Plaintiff,

08-cr-84-bbc

v.

REED ROGALA,

Defendant.

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Defendant Reed Rogala has filed a notice of appeal from the court's July 26, 2011 order denying his motion for correction of clerical errors under Fed. R. Crim. P. 36 and the November 4, 2011 order denying his motion for reconsideration.

Defendant's notice of appeal was not accompanied by the \$455 fee for filing an appeal. 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22. Therefore, I construe it as including a request for leave to proceed in forma pauperis on appeal pursuant to 28 U.S.C. § 1915. According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization "unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed." Because

defendant had retained counsel during the criminal proceedings against him, he is not automatically eligible for in forma pauperis status. Defendant will have to show that he is entitled to pauper status on appeal. Therefore, I will give defendant until January 6, 2012 to complete and file the enclosed affidavit so that I may determine his financial eligibility to proceed on appeal without prepaying the fee for filing his notice of appeal.

ORDER

IT IS ORDERED that defendant shall have until January 6, 2012, in which to file an affidavit of indigency with the court so it can determine whether defendant is eligible to proceed on appeal in forma pauperis.

Entered this 7th day of December, 2011.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge